

**REMARKS**

Claim 1 is amended to recite that the external preparation for skin is a liquid or lotion. Support for the amendment can be found, for example, at page 11, lines 5 and 20 of the present specification. Claim 1 is also amended to incorporate the subject matter of claim 5. Accordingly, claim 5 is canceled, and claim 15 is amended to depend from claim 1. Claim 22 has been amended to correct a typographical error, and claim 23 has been added based on the disclosure at, e.g., page 14, lines 13-26 in the specification. No new matter is added. Upon entry of the Amendment, which is respectfully requested, claims 1, 4, 7, 14, 15, 21, 22 and 23 will be pending.

On page 4 of the Office Action, claims 1, 4, 5, 7, 14, 15, 21 and 22 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over “Kakuchi” (JP 2003-252904), in view of “Roulier” (U.S. Patent No. 5,900,241).

Applicants traverse and respectfully request the Examiner to reconsider in view of the following remarks.

Claim 1 as amended recites an external preparation for skin, which comprises a multi-branched polysaccharide compound with multi-branched polysaccharide skeleton consisting of saccharides selected from 1,6-anhydro-β-D-glucopyranose, 1,6-anhydro-β-D-mannopyranose, 1,6-anhydro-β-D-galactopyranose, 1,6-anhydro-β-D-allopyranose, 1,6-anhydro-β-D-altropyranose, 1,4-anhydro-β-D-ribose, 1,4-anhydro-α-D-xylopyranose, 1,4-anhydro-α-L-arabinopyranose, 1,4-anhydro-α-D-lyxopyranose, 1,3-anhydro-β-D-glucopyranose, 1,3-anhydro-β-D-mannopyranose, 1,2-anhydro-α-D-glucopyranose, 1,2-anhydro-β-D-mannopyranose, and 5,6-anhydro-α-D-glucopyranose as constituent units. At least one of hydroxyl (OH) groups in the multi-branched polysaccharide skeleton is substituted by OR wherein R represents a

hydrogen atom, a hydrocarbon having 1 to 30 carbon groups or a hydrocarbon having 1 to 30 carbon groups which has hetero atom. The amount of the multi-branched polysaccharide contained in the preparation is 0.5% mass% or more. The branching degree of the multi-branched polysaccharide is 0.05 to 1.00. The external preparation is a liquid or lotion.

Applicants respectfully submit that the present claimed invention, as defined by amended claim 1, is not rendered obvious by the cited references.

While Roulier discloses that the composition can be rehydrated after immersion in water to reconstitute a liquid or semi-liquid aqueous make-up formulation (col. 7, lines 48-50), amylopectin is water-insoluble, and therefore, a skilled artisan would not consider using a composition containing amylopectin to make the aqueous formulation in Roulier. In this regard, Applicants attach a copy of a portion of "Keshohin Genryo Kijun (The Japanese Standards of Cosmetic Ingredients)"<sup>1</sup> and provide the following technical comments.

The document "Keshohin Genryo Kijun (The Japanese Standards of Cosmetic Ingredients)" discloses:

Nature: The amylose of the potato starch can be easily extracted with hot water and gives blue color in the reaction with iodine, while amylopectin is not soluble with hot water and gives red-purple color. (see page 817).

Application: Potato starch is mixed with talc and the like to be used for face powder, baby powder, pressed powder, washing powder and the like. Also, it is sometimes used for toothpastes as a binding agent or added to lipsticks and the like in a small amount. The potato starch is hygroscopic and is readily solidified. (see page 819).

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<sup>1</sup> A copy of the second edition of "Keshohin Genryo Kijun (The Japanese Standards of Cosmetic Ingredients)" pages 816 - 820 by Pharmaceutical and Medical Device Regulatory Science Society of Japan, published August 1, 1984 is attached herewith.

Processed product and derivative of starch: A starch derivative obtained by isolating amylopectin only is resistant to caking or gumming and keeps good powder flowability and powdery state even if it is exposed to the air, and therefore is suitable for the use in powder cosmetics and pharmaceutical excipients (see U.S. Patent No. 3,025,217).

As discussed above, Roulier discloses that the composition can be rehydrated after immersion in water to reconstitute a liquid or semi-liquid aqueous make-up formulation. However, as evidenced by the above description in “Keshohin Genryo Kijun (The Japanese Standards of Cosmetic Ingredients)”, a person having ordinary skill in the art at the time of the filing date of the present application understood that amylopectin is used for solid compositions and not for an aqueous formulation. For at least this reason, a person of ordinary skill in the art would not be motivated to employ the multi-branched polysaccharide of Kakuchi in place of the solid composition containing amylopectin of Roulier to arrive at an external preparation for skin which is a liquid or lotion as recited in the presently claimed invention.

In addition, the Examiner has not established a *prima facie* showing of obviousness of the present invention for the reasons of record, which are incorporated by reference herein. Namely, there is no motivation to combine the references as suggested by the Examiner with a reasonable expectation of success in arriving at the at the presently claimed external preparation which is a liquid or lotion. Even further, Applicants have shown that the present invention provides unexpectedly superior results. Thus, even if the Examiner had made a *prima facie* case (which Applicants do not concede), the evidence provided by Applicants in the Rule 132 Declaration filed with the Amendment of April 13, 2010 sufficiently establishes that the claimed invention provides unexpectedly superior results.

Further, with respect to claim 25 in particular, Applicants submit that neither Kakuchi nor Roulier explicitly discloses or suggests a multi-branched polysaccharide composition which comprises a silicone oil.

Accordingly, withdrawal of the § 103(a) rejection of claims 1, 4, 5, 7, 14, 15, 21 and 22 over Kakuchi in view of Roulier is respectfully requested.

On page 12 of the Office Action, claims 1, 4, 5, 7, 14, 15, 21 and 22 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kakuchi in view of “Dederen” (U.S. Patent Application Publication No. 2002/0065328).

Applicants traverse and respectfully request the Examiner to reconsider in view of the following remarks.

At page 15 of the Office Action, the Examiner notes:

Applicants’ argue that the viscosity of the multi-branched polysaccharides and that of natural polysaccharides are significantly different, and that the Declaration of Mr. Kamachi provides a comparison of one multi-branched polysaccharide with several natural polysaccharides. However, Applicants’ arguments are not commensurate in scope with that of the claimed invention. See MPEP § 716.02(d). Specifically, the claims are directed to a composition comprising a multi-branched polysaccharide compound. However, Applicants’ arguments and the Declaration only pertain to one particular branched degree of multi-branched polysaccharides...Thus, it is unclear what the degree of branching is for the multi-branched polysaccharide used for comparison studies in the Declaration.

Claim 1 is amended to recite that the branching degree of the multi-branched polysaccharide is 0.05 to 1.00. In view of amended claim 1, in conjunction with the remarks presented in and the Declaration filed with the Amendment of April 13, 2010, withdrawal of the

§ 103(a) rejection of claims 1, 4, 5, 7, 14, 15, 21 and 22 based on Kakuchi in view of Dederen is respectfully requested.

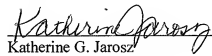
On page 17 of the Office Action, claims 1, 4, 5, 7, 14, 15, 21 and 22 are provisionally rejected on the ground of obviousness-type double patenting as allegedly being unpatentable over claims 23, 24, 27 and 28 of U.S. copending Application No. 11/088,794 ("the '794 Application") in view of "Kakuchi" (JP 2003-252904).

The Examiner is kindly requested to hold this provisional rejection in abeyance until it is the last rejection in this application or the '794 Application.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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